

Application No. 10/081,674  
Response dated June 26, 2006  
Reply to Notice of February 24, 2006

**REMARKS/ARGUMENTS**

Responsive to the Official Action mailed February 24, 2006, reconsideration in light of the following remarks is respectfully requested.

Applicants gratefully acknowledge the Examiner's formal allowance of claims 18, 23, and 24.

In the Action, the Examiner rejected claims 1, 8, and 16 under 35 U.S.C. §103, with reliance upon U.S. Patent No. 4,983,068, to Kozak et al., in view of U.S. Patent No. 4,623,282, to Allen. However, it is respectfully maintained that these references are not properly combinable in formulating a rejection under 35 U.S.C. §103, and moreover, even if combined, these references fail to teach or suggest applicants' novel protective cover, as claimed.

Accordingly, the Examiner's rejection is respectfully traversed.

As discussed in the Specification, the present invention provides a protective cover for protection of agricultural products that includes, among other features, a portion which is printed to *occlude light transmission*, such that this portion of the cover has the property capability to modify the ripening of an associated agricultural product, prior to harvesting, while the cover desirably retards passage of dust and insects.

With reference to the primary Kozak et al. reference, it is respectfully noted that this reference is clearly completely unrelated to the claimed invention, in that this reference contemplates a *construction bag for soil erosion applications*. With this contemplated use in mind, it will be observed that Kozak et al. teaches the provision of a tube-like outer shell made of geo-textile construction fabric *filled with crushed scrap glass* (see Abstract).

As is evident from the specific teachings of Kozak et al., the construction material is a fabric container that is filled with, and that *must* contain crushed glass to function properly (see

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discussion at column 1, line 66 to column 2, line 1; column 2, lines 34-37; column 3, lines 3-6; and claim 1).

As described in Kozak et al., the glass content is critical to the intended function contemplated by this reference, by providing proper *water drainage* while controlling soil erosion (see column 6, lines 10-17).

In significant distinction, the protective cover for agricultural products of the presently claimed invention does not recite "glass-filled bags", nor would such a device be desired or acceptable in the context of food treatment and handling. The removal of the crushed glass from Kozak et al's. drainage bag device, which would be required to somehow convert Kozak et al's. device into a suitable container for foods, would destroy the intent, purpose, and function of the invention disclosed in the Kozak et al. reference. Thus, the application of the Kozak et al. reference against the present claims is not proper, and a *prime facie* case of obviousness cannot properly be made.

In this regard, applicants respectfully refer to M.P.E.P. Section 2143.01, which specifically admonishes that "the proposed modification cannot render the prior art unsatisfactory for its intended purpose". And that, "the proposed modification cannot change the principle of operation of a reference". Clearly, the primary Kozak et al. reference is specifically *limited* to its teachings of a glass-filled, tube-like structure, with no contemplation in this reference whatsoever that any aspects of the teachings of this reference have bearing upon the provision of a protective cover for agricultural products.

It is respectfully maintained that the secondary reference, to Allen, is clearly unrelated to both the present invention, as well as the primary Kozak et al. reference. As such, applicants must respectfully maintain that these references cannot properly be combined in formulating a

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rejection under 35 U.S.C. §103. Moreover, even if combined, the Allen reference clearly fails to overcome the deficiencies in the teachings of the primary Kozak et al. patent.

The Allen reference contemplates a *tape* for marking utility lines or the like, which includes printing indicia (see Abstract). As such, Allen clearly fails to describe or suggest a *protective cover for agricultural products*, and clearly fails to teach or suggest that the printing indicia on the tape disclosed in Allen has any applicability to such a protective cover.

Moreover, the substrate materials upon which Allen provides printing are *plastic films or metal foils*, and the like, and *not* a nonwoven fabric (see column 2, lines 39-41, and column 5, lines 63-66).

As such, it is clear that there is no bonafide teaching or suggestion in the relied-upon prior art that might have motivated one of ordinary skill to consider trying to use Allen's printing indicia on the water drainage/soil erosion control bags of Kozak et al. There is also no reasonable expectation of success for such a proposed modification, particularly in view of the fact that Allen has no teachings or suggestion that the printing indicia described can be used on fabrics.

Accordingly, it is respectfully submitted that Kozak et al. cannot properly be combined with the Allen reference in the manner suggested by the Action, without destroying the intended function of the invention of Kozak et al. Moreover, applicants respectfully submit that there is no basis in the relied-upon art for combining or modifying these references in the manner proposed in the Action.

Again, applicants respectfully refer to M.P.E.P. Section 2143.01, which specifically requires that "the prior art must suggests the desirability of the claimed invention", yet neither of the references have any teachings whatsoever regarding the provision of a protective cover for

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protecting agricultural products. Additionally, in accordance with 2143.03, "all claim limitations must be taught or suggested" yet neither of these references teach or suggest the provision of a cover sized to permit positioning generally about an associated agricultural product, as specifically set forth in the presently pending claims.

In view of these clear deficiencies in the teachings of the primary and secondary references, reconsideration of the Examiner's rejection is believed to be in order and is respectfully solicited.

In view of the foregoing, formal allowance of claims 1, 8, and 16, in addition to the allowance of claims 18, 23 and 24 is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

By



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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 26, 2006.

